



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
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Ref: 8P-HW

APR 28 2004

CERTIFIED MAIL - FIRST CLASS MAIL
RETURN RECEIPT REQUESTED

Steven D. Landau
Manager, Environmental Affairs
Cotter Corporation
7800 E. Dorado Place, Suite 210
Englewood, CO 80111

Re: Rescission of the January 3, 2003 Notice of Unacceptability
For the Two Impoundments

Dear Mr. Landau:

This letter is in response to your letter dated March 26, 2004, concerning EPA's Notice of Unacceptability (NOU) to the Cotter Uranium Mill (Cotter Mill) in Canon City on January 3, 2003. In your letter, you stated your belief that the issues related to the NOU have been resolved and requested that EPA rescind this NOU.

EPA has reviewed the situation and hereby rescinds the NOU for the two impoundments. This decision is based on our finding that the Cotter Mill has successfully addressed all the issues cited in the NOU. More specifically, the Cotter Mill has returned to physical compliance for the three cited violations and has an approved control that addresses the release in the counter-current decantation (CCD) tanks area. Additionally, Cotter has resolved the "combination issue" cited in our letter of September 29, 2003, by obtaining assurance from the Department of Energy (DOE) that all materials currently in the impoundments will not inhibit transfer of ownership of the site to DOE for the purposes of long-term custodial care. These findings were confirmed through a review of all pertinent correspondence, consultation with Colorado Department of Public Health and Environment (CDPHE), and a site review conducted by EPA and CDPHE on April 21, 2004.

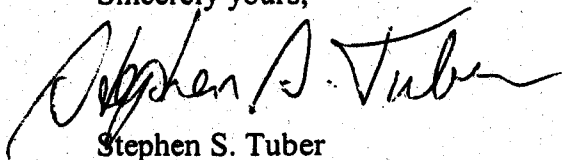
This rescission of the NOU means that the finding of unacceptability for the primary and secondary impoundments at the Cotter Mill has been lifted, and that these units continue to be acceptable to receive CERCLA (Superfund) wastes. These two units had previously been found to be acceptable by EPA in our letter of August 31, 2000. The NOU of 2003 found these units unacceptable, but the effective date for that notice was stayed while Cotter worked on resolution of the issues. With this letter, EPA rescinds the NOU and its finding of unacceptability. However, before CERCLA wastes may be received by Cotter, permission must also be granted by CDPHE through its licensing process.



The other five (5) units found unacceptable by the NOU (the rail spur, the 3 storage pads, and the process circuit) had not previously been found to be acceptable, and thus the NOU was immediately effective for these units. Consequently, although the issues that supported the finding of unacceptability for them have been resolved, these units remain unacceptable for the receipt of CERCLA wastes pending a finding of acceptability. If it chooses to do so, Cotter may now re-apply for acceptability status for one or more of these units.

If you have any questions regarding this letter, please contact Terry Brown, the Region 8 CERCLA Off-Site Rule Coordinator at (303) 312-6419.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Stephen S. Tuber", with a stylized flourish at the end.

Stephen S. Tuber
Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

cc: Steve Tarlton, CDPHE
Donna A. Bergman-Tabbert, DOE